

PROCEEDINGS OF THE CITY-PARISH COUNCIL MEETING OF THE CITY-PARISH OF LAFAYETTE, STATE OF LOUISIANA, TAKEN AT A REGULAR MEETING OF JANUARY 28, 2003.

ATTENDANCE

COUNCIL: Jerry Trumps (Chair - District 6), Bobby Badeaux (District 1), Chris Williams (District 3), Louis C. Benjamin, Jr. (District 4), Lenwood Broussard (District 5), Marc Mouton (District 7), Rob Stevenson (District 8), Randy Menard (District 9)

ABSENT: Robert Castille (Vice Chair - District 2)

COUNCIL STAFF: Norma Dugas (Clerk of the Council), Veronica Williams (Assistant Clerk of the Council) and Anne Patin (Senior Administrative Assistant)

ADMINISTRATIVE STAFF: Glenn Weber (CAO), Chief Ronald Boudreaux (Police Department), Chief Robert Benoit (Fire Department), Robert Benoit (Director of Planning, Zoning and Codes), Gerald Boudreaux (Director of Parks & Recreation, Tim Breaux (Director of Community Development), John Raines (Public Works Director), Steve Dupuis (Legal Counsel), Tony Tramel (Director of Transportation)

COMMENCEMENT

(TAPE 1)(SIDE A)(000) AGENDA ITEM NO. 1: Call to order.

Chair Jerry Trumps called the Regular Council Meeting of January 28, 2003 to order.

(TAPE 1)(SIDE A)(001) AGENDA ITEM NO. 2: Invocation and Pledge of Allegiance.

Councilmember Marc Mouton was called upon to deliver the invocation and lead the Pledge of Allegiance.

(TAPE 1)(SIDE A)(012) AGENDA ITEM NO. 3: **EXECUTIVE/PRESIDENT'S REPORT**

No report was given.

(TAPE 1)(SIDE A)(025) **COUNCIL ANNOUNCEMENTS**

The Chair recognized Councilmember Williams. Williams relayed an incident which occurred between himself and his wife and a local physician. He expressed disappointment in the way he was treated and called for respect of the patient.

(TAPE 1)(SIDE A)(058) AGENDA ITEM NO. 4: **REPORTS AND/OR DISCUSSION ITEMS**

Discussion

AGENDA ITEM 4E WAS TAKEN OUT OF SEQUENCE.

e. Update on enforcement of noise ordinance.

Upon the request of Benjamin, Legal Counsel Steve Dupuis reported the following:

- In February, Eric Zwerling, a noise expert who assisted in drafting the noise ordinance several years ago, will return to Lafayette to retrain police officers and to recalibrate the equipment used. At that time, problems with the ordinance and the management of the ordinance will be discussed with him.
- Upon request of a Councilmember, noise ordinances were obtained from Houston and Baton Rouge. Upon review, Houston's ordinance was similar to LCG's current ordinance; however, it allowed for a higher decibel level. The Baton Rouge ordinance resembled the old noise ordinance.
- The biggest component of the ordinance is broadcast vehicles (boomboxes). City-Parish Assistant Attorney Ricky Miniex is researching and drafting a proposed amendment that would take the boombox issue and transfer it to the Traffic Ordinance. Officers would be able to issue a traffic citation. Benefits are 1) it would be a fine like in Traffic Court, including minors, and 2) it would make

- it easier to collect the fine.
- Consideration is being given to place it into “Criminal” with misdemeanor fines because of enforceability and ease of collection. One of the major problems with the ordinance is collection of fines.
- 2 cases are in litigation now where the individuals are claiming unconstitutionality of the ordinance. No rulings have been made as of yet.
- Concluded that the noise ordinance is working. 80% of the violations have been disposed of either by fine or by some type of compromise, such as community service. It does need improving with focus on the collectability of the fines.

Tim Melancon, ATAC Project Manager, reported that in 2001, 322 citations were issued for violation of the noise ordinance. In 2002, it jumped to 360 citations. In June of 2002, the system was tested by writing citations under the criminal statute of “Disturbing the Peace” to see how the Court would respond. Of the 360, one-half has been sent to City Court under a criminal citation. The other 180 were dealt with as a civil matter in his office. Under “Criminal – Disturbing the Peace” 48 cases had the individual pleading guilty or no contest and were ordered to pay a fine. 5 cases were dismissed. 26 cases were given Pre-Trial Diversion. 21 warrants were issued because individuals did not show up for court. 52 cases are pending an arraignment date. 28 cases are waiting the prosecutor’s review of that case.

The other 180 cases are broken down this way: 93 paid a civil fine; 7 cases were compromised, 9 cases were dismissed, 10 collection letters were returned and 61 pending collections. He added that it is very difficult to collect the civil fine. Williams requested that Melancon provide a copy of his survey to the Council.

Upon questioning by Stevenson, Dupuis explained that, in general, an ordinance can be passed by a Council that regulates noise. Each ordinance and the penalties differ. An ordinance can be declared unconstitutional in the “application” of the ordinance as compared to the wording itself. The meetings, prior to the adoption of this ordinance, were attended by judges (at all levels) and prosecutors. Prosecutors do not seem to hesitate to try to enforce this ordinance although judges have different philosophies. Regarding the civil vs. criminal penalties, Dupuis explained the judges, under the old ordinance, had problems finding one guilty because of the subjectivity of the ordinance because it called for the “offending of reasonable sensitivity”. The new ordinance provides objective standards such as decibels levels, distances, etc. Melancon added that administratively his office has been handling civil cases by requiring the individual to pay the fine when they are issued the citation. The problem comes when they refuse to pay the citation and his department is forced to sue them civilly to collect that fine.

Benjamin inquired about the people who are violating the ordinance from their home or business. Dupuis explained that the ordinance has an injunctive provision for those who are truly a nuisance or repetitive. He recommended that this clause be left in the ordinance.

Williams then asked Chief Boudreaux how enforcement was going and the number of commissioned officers lacking on the force. Boudreaux reported that 500 to 600 calls per day are received and, with 16 people on a shift, these calls have to be prioritized. The force is short 21 commissioned officers.

Upon questioning by Badeaux, Dupuis explained that filing suit because an individual did not pay his/her fine is \$250 just for the court costs. That amount can be tacked on to the fine; however, it is very difficult to collect anything from them. He then asked Melancon of the 61 cases, how many are habitual. Melancon stated he did not have those statistics but would send them to Badeaux.

Menard commented that the reason a criminal penalty is more successful is because the individual does get a court date and they do know they have to go to court and get a fine. If the fine is not paid then they are going to jail. In a civil penalty, they will wait to get a court date and a law suit. They will pay at that time, if they can. He asked if Dupuis had considered the prosecutor doing the work. Dupuis answered yes.

Upon questioning by Trumps, Dupuis stated that, depending on Mr. Zweling coming in February, a proposed amended ordinance could be presented to the Council in April.

The following individuals were recognized:

Patrick Brasseaux addressed the Council, again, regarding an audio business in his neighborhood. This business installed audio equipment inside vehicles. He felt with the number of complaints and violations this business has received there should be an injunctive order. Residents have a right to peace and quiet in their homes.

Dupuis clarified that under the prior ordinance this matter went to City Court three times. All three times the judge dismissed the case. For Brasseaux's information, he added that there is an Assistant City-Parish Attorney looking into this matter right now. From information provided to him by Melancon, there were 58 complaints against this location in 2001. All of those complaints came from Brasseaux or his family. In 2002, there were 39 complaints, again, coming from the Brasseaux household. The records show 6 violations in those two (2) years. The fines for these violations would be up to the judge.

- a. City of Lafayette residents who have Duson and Scott mailing addresses.

Williams introduced Mr. Donald Begnaud, owner of Begnaud Manufacturing. Begnaud explained the difficulties of running a business in Lafayette with a Scott address, particularly with delivery of parts to keep their machines running. He added that he pays taxes to and collects taxes for the City of Lafayette. Postmaster Troy Sutherland, U. S. Postal Service, explained that a survey was taken in that area to see if residents and businesses wanted to change to Lafayette. Letters were sent to 200 customers receiving their mail from Scott. 61% of the respondents did not want to change. Since a simple majority of 50.1% received did not agree, the Postal Service would not change the boundaries in this area. He added that once a survey is done a ten (10) year tenure is put into place. He suggested that the Council contact the Congressman for this area.

Paul Sowall, President of Begnaud Manufacturing, rebutted that Mr. Begnaud was not aware of the ten (10) year tenure. If he had been, he would have mustered the resources necessary to get the word out.

Williams requested that the Clerk of the Council set up a meeting with Representative Chris John, Donald Begnaud, Troy Sutherland, Paul Sowall, Gregg Gothreaux and himself to discuss reconsideration of this issue.

- b. Status of I-49 connector.

Tramel explained that the "Record of Decision" was made on January 8, 2003, which provided the authority to use Federal funds for this project. LA DOTD has recently provided LCG with the contract for Preliminary Engineering and the scope of services for the consultant. The scope of services consists of transition modeling, mapping of existing features, geometric design, structural study, waste cleanup study, mitigation/joint use/design concepts and information systems. He then presented a timetable for the project to the Council. After meeting with DOTD, the Traffic & Transportation Department, through the Administration, will come to the Council to discuss options of LCG's involvement with the I-49 project. He mentioned that funding would be a major factor. LCG has approximately \$3,000,000 for seed money, which will help this project move forward. Funding will most likely come from the Highway Bill, which will be debated this year. LCG will have to compete at the Congressional level with everyone else to secure funding.

Trumps requested that Tramel provide the Council an updated timeline after the meeting with DOTD.

The following individuals were recognized:

Jeffrey Landry did not wish to speak but opposed the project.

Patrick Brasseaux supported the I-49 Project but did not support the connector going through Lafayette. He felt that other options should be explored.

Jennifer LeBlanc stated that in September, 2002, the final impact statement on this project was issued. There was no public hearing on the statement. In November, the comment period on the statement ended. Two (2) months later, the Record of Decision

was signed. 674 letters were received (and were made part of the permanent record of this project). 650 letters were from individuals. 647 individuals opposed this project. The remaining letters were from organizations.

Harold Schoeffler stated that the Council has put an economic limbo in a segment of the community. 4,000 pieces of property have been put in this position. Individuals and businesses will not be able to buy or sell property and suggested that LCG start the process of buying.

Tramel rebutted that 1) there is no one, at this time, that can determine exactly where the route goes, 2) the numbers of property given by Mr. Schoeffler is incorrect. There is a Corridor Preservation Program which allows people to relocate outside the area that would be taken, and 3) because there are Federal funds involved, when the acquisition of right of way takes place, they must comply with the Uniform Relocation Systems Act.

c. Update on Multimodal Transportation Facility.

Tramel began a slide presentation of the Multimodal Facility by showing historical pictures of the Train Depot over the years. The depot structure is being rebuilt using the original structures and is being funded by grants. He then showed an overhead view of the Multimodal Facility highlighting the changes to the facilities and the different departments (including the U. S. Post Office), which will be housed there. Phase I is 70% complete. Bids were received this date to move forward with Phase II. Phase III will be the platform where the buses will pull in and Phase IV will be parking lots. Projected total cost of this project will be \$12,600,000.

Upon questioning by Williams, Tramel explained that the Post Office will remain where it is; however, the post office boxes will be moved to another area of this building.

d. Community Development's role in oversight of Central Parks Network System.

Breaux reported that a Users Committee (made up of citizens who will use the parks) was formed and met to discuss policies, procedures and fee structures for these parks. The City-Parish Attorney is now drawing up a contract for review. It is foreseen that the first festival to be held in these parks will be Festivals International in April. He added that Community Development will oversee and do the scheduling for the parks because they are located in that vicinity and Public Works will handle the maintenance contracts. Reservations are now being penciled in.

f. Recognize Bill Pondrum of Spray-Max regarding the Herbicide Program.

Produm, District Manager of Spray-Max, Inc., explained that LCG has three professional services contracts with: 1) VMSI for concrete-lined channels, 2) VMSI for rural roadsides, and 3) Louisiana Clearwater for earthen channels. LCG is paying for application only. He reminded the Council that he had appeared before the Council in September 2002 and at that time discussion was held on the problems surrounding the contractor (at that time) for earthen channels. Shortly after that, Spray-Max submitted their Professional Services form to be considered for the upcoming year's herbicide program and was told that the idea of two contractors to do the job was being entertained, but Spray-Max would be considered. The contract was ultimately awarded and split between VMSI and Louisiana Clearwater. He argued that a company that did not fulfill the contract was hired again and that he was not given a fair chance to bid on the project. He then requested the Council not fund the project until he gets a chance. He also asked that the application process be changed to the sealed bid or proposal process.

Mouton asked what provisions have been made so this situation will not happen again. Campbell answered that the project was divided in two. He will have only half of the Parish to spray. Campbell rebutted that VMSI did provide the work even though it had personnel problems in the beginning. In October, there was 17 inches of rain and, of course, Hurricane Lili. Past experience has proved that the chemicals should be bought and inventoried by LCG. The system is working well and is monitored by Jeff Angelle, Drainage Supervisor.

Mouton advised that in the next several weeks he would bring recommendations to the Council to reform the Professional Services Selection Committee situation. Trumps

reminded that the decision from the Professional Services Selection Committee was based on recommendations by Public Works to split the award of the contract in two. The three companies were reviewed and recommendation was forwarded to the President for selection. This process was not a bid.

Broussard argued that for the third year LCG is going to give a company, who has not performed even to 50%, an opportunity to be back in there with less mileage. He felt it was a waste of taxpayers' money.

Stevenson stated he could not understand why VMSI's name was even given to Mr. Comeaux, especially after having two (2) unsuccessful years prior to this process.

g. Camellia Boulevard soundwall time line

Stevenson commented that the money for this project has recently become available because of the bond sale a few weeks ago. He felt it would be a good time for a status report.

Raines reported that a selection process for a consultant should be completed in the next couple of weeks. He will then meet with the consultant to set the terms, timeline for construction and funding. He mentioned that the soundwall would not be complete when the bridge is opened. He reminded that a commitment was made to proceed with getting the bridge and the road open first and then continue with the soundwall.

Stevenson requested that this be placed on the agenda at the end of March and asked that Raines provide him with a running update as the project progresses.

Weber stated that the Administration is committed to this project and now that the project has progressed the soundwall will be constructed.

h. Update on Nezida Roy/Lake Pointe drainage issue. *Item was pulled by Councilmember Broussard.*

i. Status of East Bayou Parkway Bridge.

Raines reported that the bridge over the Ivanhoe Coulee is about 300 feet southeast of the river. When working in such close proximity of the river, the level of the river has an impact on the coulee itself. As a result, this project has had significant delays because of typical storms, a wet year, etc. The latest estimate shows they should be finished in the next 30 – 45 days.

COMMENTS FROM THE PUBLIC

(TAPE 1)(SIDE A)(110) AGENDA ITEM NO. 5: Comments from the public on other matters.

Mary Ann Ficaro presented a letter to the Council from her sister regarding an incident whereby the AIS Supervisor informed Ms. Ficaro a smaller vehicle would provide service to her instead of a larger vehicle which was agreed upon several weeks before. Ms. Ficaro felt this was a great disservice to her. She then questioned the funding for this service and requested the Council take a closer look when the contract is up for renewal.

The Chair stated that, as far as this Council is concerned, the Program is adequately funded to meet the needs that were set forth by the Transportation Department. He added that Councilmember Mouton would confer with the Director.

Pearly Henry spoke in support of the HUD 811 Program for housing the disabled.

Williams requested that the Clerk contact Ms. Henry with the date and time of a hearing at the MLK Center concerning the Comprehensive Plan for the Consolidated Government, which supports HUD housing. Also, to submit a transcript of Ms. Henry's comments this evening to the Director of Community Development for that hearing.

Patrick Brasseaux explained that after Hurricane Lili, he had roof damage and decided to fix it himself. He has placed shingles at the road and has called several City-Parish Departments who have promised to pick it up. Today, the debris is still there and he asked when it would be picked

up.

Raines agreed to follow up on this request and take the appropriate action.

Jennifer LeBlanc did not wish to speak.

Jeffrey Landry asked if the five Councilmembers representing the City would place an issue on the ballot to do away with Consolidated Government. It was his understanding that Councilmember Trumps was going to propose changes to the Home Rule Charter as such.

Trumps clarified that he was going to suggest that a committee be appointed to look at discrepancies in the Charter and make recommendations to the Council. Six members must approve placing an issue on the ballot. That committee will be appointed soon.

ADJOURNMENT

(TAPE 1)(SIDE A)(388) There being no further business to come before the Council, Chair Trumps declared the Regular Meeting adjourned.

NORMA A. DUGAS
CLERK OF THE COUNCIL